

### **REMARKS**

Claims 1-20 are pending in the present application. The Office Action has been considered. Favorable reconsideration is respectfully requested.

Claims 1-20 were rejected under 35 U.S.C. §101 as being allegedly directed to non-statutory subject matter. This rejection is respectfully traversed for the following reasons.

It is difficult to tell which claims the Examiner considers to be in violation of the requirements of 35 U.S.C. § 101. In particular, in the introductory paragraph of section 2 of the office action, claims 1-20 are listed. However, only claim 1 is discussed in the body of the rejection. Since claims 6-20 all specifically recite devices, storage means, and other clearly acceptable statutory categories, Applicant assumes that these claims are not included in the rejection. If this is incorrect, the Examiner is requested to reissue an office action and clearly explain how he believes that these claims are directed to non-statutory subject matter.

With respect to the rejection of Applicant now recites in claim 1, the office action inaccurately quotes claim 1 as reciting “a method for estimating the time-dispersion of a channel comprising D subchannels, wherein one computes...” In fact, claim 1, as amended in the response filed on April 1, 2009, recites a “method for estimating the time-dispersion of a channel ***in a communications system***, the channel comprising computing, from a signal received ***over the channel in a receiver***, ... and estimating, ***in said receiver***, the time dispersion ***of said channel*** using the calculated correlation factor  $C_d$ .” Applicant respectfully submits that this claim comports and

complies with 35 U.S.C. §101, as the claimed method is tied to a system and apparatus.

In the response to Applicant's arguments, the Examiner asserts that "the method is required to be tied to a physical device and manner in which the method effectuates the physical device." This statement is not understood and moreover, to the extent it is understood, it is not a correct statement of the law. In the recent case of *In re Bilski*, the Federal Circuit noted that the question to be answered is "whether Applicants are seeking to claim a fundamental principle (such as an abstract idea) or a mental process." *In re Bilski*, 88 U.S.P.Q.2d 1385, 1389 (Fed. Cir. 2008).

Claim 1 does not recite an algorithm which has no uses other than those that would be covered by the claims (such as, *i.e.*, any conversion of BCD to pure binary on a digital computer), and therefore claim 1 does not pre-empt all uses of the algorithm and thus is not effectively drawn to the algorithm itself. *See id.*, 88 U.S.P.Q.2d at 1390. The method recited in claim 1 is limited to estimating the time-dispersion of a channel in a communications system, receiving signals from a channel in receiver, and estimating, in the receiver, the time-dispersion of the channel. At least one of the steps in the claimed method is recited as being performed by a device: "estimating, in said receiver...." Further, the method itself is tied to a channel in a communication system, the channel not only being claimed in the preamble, but in the first and third steps of the method. Thus, it does not pre-empt all uses of the method (or algorithm). *See id.*, 88 U.S.P.Q.2d at 1391 ("A claimed process involving a fundamental principle that uses a particular machine or apparatus would not pre-empt uses of the

principle that do not also use the specified machine or apparatus in the manner claimed.”).

For at least these reasons, Applicant respectfully submits that the claims comply with the requirements of 35 U.S.C. § 101, and requests withdrawal of this rejection.

Claims 6-15 and 17-20 were rejected under 35 U.S.C. §112, first paragraph, as allegedly failing to comply with the enablement requirement. This rejection is respectfully traversed for the following reasons.

Again, as above, it is difficult to tell which claims are actually rejected and the basis for the rejection itself, since the rejection refers to claims 6-15 and 17-20 by number in the summary sentences, but alleges that the problem with the claim(s?) is that there allegedly is a “single means”. While Applicant disagrees with that assertion with respect to claim 6, at least claims 7, 10 and 11 recite additional units or structure that clearly eliminate them from being characterized as a “single means” claim. If this rejection is maintained, the Examiner is requested to reissue an office action and clearly explain how he believes that these claims do not comply with the enablement requirement with respect to each asserted claim, so that Applicant can have an opportunity to completely respond to and address the basis for the continued rejection.

Turning to the merits of the rejection, to advance prosecution, and without any intention of limiting or broadening the scope of the claim, claim 6 has been amended to specifically include the steps of the method of claim 1, rather than using the shorthand way of incorporating those steps. Claim 6 is now an independent claim,

which recites a device for executing a specific claimed method. Further, contrary to the Examiner's assertions, claim 6 is not a "single means" claim. It recites both an input (a first "means") and a correlations unit (a second "means").

For at least these reasons, Applicant respectfully submits that claims 6-15 and 17-20 comply with the requirements of 35 U.S.C. § 112, first paragraph.

Withdrawal of this rejection is respectfully requested. If this rejection is maintained, the Examiner is requested to reissue an office action and clearly explain the basis for his rejection.

In view of the above amendment and remarks, Applicant respectfully requests entry of the proposed amendment and reconsideration and withdrawal of the outstanding rejections of record. Applicant submits that entry is appropriate because they were not earlier presented because they are made in response to a rejection made for the first time in the final rejection. Applicant submits that the application is in condition for allowance and early notice to this effect is most earnestly solicited.

If the Examiner has any questions, he is invited to contact the undersigned at 202-628-5197.

Respectfully submitted,

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